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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/760,657

01/20/2004

John B. Hey

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9863

7590 10/31/2007
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EXAMINER

FISHER, PAUL R

ART UNIT

PAPER NUMBER

4127

MAIL DATE

DELIVERY MODE

10/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/760,657

Applicant(s)

HEY, JOHN B.

Examiner

Paul R. Fisher

Art Unit

4127

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 1/20/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/20/2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is a first Office Action Non-Final rejection on the merits.

Claims 1-18, as originally filed, are currently pending and have been considered below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (6,611,814), in view of Alex Frangos: "E-Commerce (A Special Report) --- Here's My Advice...--- If Amazon Has a Suggestion for You, Be Prepared for Some Good Ideas – and Some Confusion" (Jan 18, 2002) hereafter "Frangos".**

As per claim 1, Lee et al. discloses a method for acquiring a consumer's subjective appraisal of an item (Col.1, lines 53-55; discloses that a shopper can create a wish list in an online store and record information on products he or she wants to buy from the store in the list. Col. 12, lines 65-66; discloses that the customer will enter an interest level associated with each product in the list) comprising:

Presenting to the consumer a list of items previously appraised by the consumer, ordered by the consumer's appraised values (Col. 1, lines 55-56; discloses that the shopper can access the list anytime. Figure 11; discloses that the items in the list are ordered by interest level for each individual user).

Lee et al. fails to fully disclose where an item is of a type of which the consumer has previously appraised one or more items, and where the user is allowed to indicate a position along the presented list which corresponds to the consumer's appraisal of the new item relative to the items in the presented list.

Frangos teaches that the item is of a type of which the consumer has previously appraised one or more items (Page 2, paragraph 6; teaches to get around these problems, you need to edit your profile. With every item you click on – be it a CD, a book, or even a Cuisinart—you are shown a tool labeled “rate this item”, which lets you tweak your profile). Frangos further teaches where the user is allowed to indicate a position along the presented list, which corresponds to the consumer's appraisal of the new item relative to the items in the presented list (Page 2, paragraph 6; teaches to get around these problems, you need to edit your profile. With every item you click on – be it a CD, a book, or even a Cuisinart—you are shown a tool labeled “rate this item”, which lets you tweak your profile. You can indicate when you already own an item and rate it from a scale of one to five, five being an item you love. There is also an option that lets you exclude from your ratings items that you might have bought as gifts or for work. Some users have rated over 10,000 items, from this it is shown that the user is allowed to enter new items and place them on the scale between 1 and 5).

From this teaching of Frangos, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of acquiring information from users and displaying it in a list ordered by the rating provided by Lee et al. with the rating of items of the same type you have previously rated and

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then scoring those items and being allowed to exclude certain items taught by Frangos, for the purpose of providing a more accurate list, and a list that the user can edit and change when their interest changes.

As per claim 2, Lee et al. further discloses where the method is used to acquire item appraisals for a computerized appraisal prediction system (Abstract; discloses that the system generates lists of recommended products for shoppers to buy).

As per claim 3, Lee et al. further discloses where the relative difference between the consumer's appraised-values of adjacent listed items is also indicated in the presented list (Col. 13, lines 27-32; discloses also, a shopping list may include one or more constraints in various terms: the user's budget, the product price, the attributes of products such as color, size and brand, the product categories, and the relationship among products and their attributes, from this it is shown that the user can see the relative differences between adjacent items for instance if they are both rated equally and one costs more or is a different color that information will be available in this list).

Lee et al. further discloses where the consumer may adjust the relative difference between adjacent listed items, to refine accordingly the consumer's appraised difference between the items (Col. 12, lines 61-64; discloses that the total number of visits of the shopper to the product's Web page, and the interest level. This information is useful to make relevant product recommendations, from this it can be shown that the user may adjust the relative difference between adjacent items by visiting one product more often than another the that information will be taken into account in the recommendation process).

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As per claim 4, Lee et al. further discloses allowing the consumer to indicate a position along the list includes allowing the consumer to place a description of the new item above or below an item, or between two items, that had been previously been appraised by the consumer (Figure 8; disclose the occasion of the item that is located between one product and another, from this it is shown that there is a description of the new item entered by the consumer).

As per claim 5, Lee et al. further discloses allowing the consumer to indicate a position along the list includes allowing the consumer to place a description of the new item at the same position in the list as an item that had been previously been appraised by the consumer (Figure 8; disclose the occasion of the item that is located between one product and another, from this it is shown that there is a description of the new item entered by the consumer and the description of a new item could be put in the position where and old item was located).

As per claim 6, Lee et al. further discloses where the items comprise movies (Col. 1, lines 51-53; discloses that a wish list is used by companies such as Amazon. COM, from this it is inherit that since Amazon sells movies the items in the list could comprise movies).

As per claim 7, Lee et al. further discloses where the items comprise books (Col. 1, lines 51-53; discloses that a wish list is used by companies such as Amazon. COM, from this it is inherit that since Amazon sells books the items in the list could comprise books).

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As per claim 8, Lee et al. further discloses where the items comprise sound recordings (Col. 1, lines 51-53; discloses that a wish list is used by companies such as Amazon. COM, from this it is inherit that since Amazon sells CDs the items in the list could comprise sound recordings).

As per claim 9, Lee et al. discloses a method for displaying a prediction of a consumer's subjective appraisal (Col.1, lines 53-55; discloses that a shopper can create a wish list in an online store and record information on products he or she wants to buy from the store in the list. Col. 12, lines 65-66; discloses that the customer will enter an interest level associated with each product in the list) comprising:

Presenting to the consumer a list of items previously appraised by the consumer, ordered by the consumer's appraised values (Col. 1, lines 55-56; discloses that the shopper can access the list anytime. Figure 11; discloses that the items in the list are ordered by interest level for each individual user);

Indicating a list position which corresponds to the appraisal value predicted for the item relative to the other items in the list (Figure 11; discloses that the items in the list are ordered by interest level for each individual user and indicate a specific product number associated with that product they are in order from greatest interest to lowest interest of each individual in the list so for Joe Smith the position of item P21 is at position 3 and P42 is at 2 and P632 is at 1).

Lee et al. fails to fully disclose where an item is of a type of which the consumer has previously appraised one or more items.

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Frangos teaches where an item is of a type of which the consumer has previously appraised one or more items (Page 2, paragraph 6; teaches to get around these problems, you need to edit your profile. With every item you click on – be it a CD, a book, or even a Cuisinart—you are shown a tool labeled “rate this item”, which lets you tweak your profile, from this it is shown that the items are items which has been previously viewed).

From this teaching of Frangos, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of acquiring information from users and displaying it in a list ordered by the rating provided by Lee et al. with the rating of items of the same type you have previously rated taught by Frangos, for the purpose of providing a more accurate list of similar items to aid in the selection of new items.

As per claim 10, Lee et al. further discloses indicating a list position includes placing a description of the new item between two items in or proximate the list (Figure 8; disclose the occasion of the item that is located between one product and another, from this it is shown that there is a description of the new item entered by the consumer).

As per claim 11, Lee et al. further discloses indicating a list position includes placing a description of the new item at the same list position as another item in the list (Figure 8; disclose the occasion of the item that is located between one product and another, from this it is shown that there is a description of the new item entered by the

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consumer and the description of a new item could be put in the position where and old item was located).

As per claim 12, Lee et al. further discloses where the items comprise movies (Col. 1, lines 51-53; discloses that a wish list is used by companies such as Amazon. COM, from this it is inherit that since Amazon sells movies the items in the list could comprise movies).

As per claim 13, Lee et al. further discloses where the items comprise books (Col. 1, lines 51-53; discloses that a wish list is used by companies such as Amazon. COM, from this it is inherit that since Amazon sells books the items in the list could comprise books).

As per claim 14, Lee et al. further discloses where the items comprise sound recordings (Col. 1, lines 51-53; discloses that a wish list is used by companies such as Amazon. COM, from this it is inherit that since Amazon sells CDs the items in the list could comprise sound recordings).

4. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee et al. (6,611,814), in view of Frangos, further in view of Blades et al. (5,465,358).

As per claim 15, Lee et al. discloses a method for displaying a prediction of a consumer's subjective appraisal of an item (Col.1, lines 53-55; discloses that a shopper can create a wish list in an online store and record information on products he or she

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wants to buy from the store in the list. Col. 12, lines 65-66; discloses that the customer will enter an interest level associated with each product in the list) comprising:

Presenting to the consumer a scale or range of possible values for the consumer's appraisal of the item (Col 12, lines 65-67; discloses In particular, the last field, the interest level, shows how the shopper is interested in this product in a number, for example, "1" meaning low, "2" medium, and "3" high. From this it is shown that the user is presented with a scale to rate the items they have a viewed).

Lee et al. fails to fully disclose the item is of a type of which the consumer has previously appraised one or more items, and further the step of indicating to the consumer a probability value associated by the prediction with each scale value or range of values, and where.

Frangos teaches where an item is of a type of which the consumer has previously appraised one or more items (Page 2, paragraph 6; teaches to get around these problems, you need to edit your profile. With every item you click on – be it a CD, a book, or even a Cuisinart—you are shown a tool labeled "rate this item", which lets you tweak your profile, from this it is shown that the items are items which has been previously viewed).

From this teaching of Frangos, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of acquiring information from users and displaying it in a list ordered by the rating provided by Lee et al. with the rating of items of the same type you have previously rated taught

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by Frangos, for the purpose of providing a more accurate list of similar items to aid in the selection of new items.

Blades et al. teaches indicating to the consumer a probability value associated by the prediction with each scale value or range of values (Col. 7, lines 17-19; discloses graphically displays a probability which represents the likelihood that the user will select each particular user input sequence, from this it is shown that there is a probability value displayed).

From this teaching of Blades et al., it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of acquiring information from users and displaying it in a list ordered by the rating provided by the combination Lee et al. and Frangos with displaying the prediction information as taught by Blades, for the purpose of aiding the consumer in selecting the best choice for their purchase, if they were given a series of prediction information the highest values would be the safer choices.

As per claim 16, Lee et al. further discloses a continuous range of probabilities is indicated for a continuous range of scale values (Col. 13, lines 1-5; discloses the interest level can be calculated in many different ways. Examples of factors that are taken into account for the calculation include frequency and recency of visits, from this it is shown that not only does the user rate each product but the system will also calculate the probability of recommendations based on frequency of visits and the time frame in which the visit was made to the product website. With that information the scales are continuous).

As per claim 17, Lee et al. further discloses the probability value is indicated at least in part through presentation of multiple scales or ranges of possible values (Col. 12, lines 65-67; discloses the user selecting the interest level based on a scale of 1 to 3, 1 being the lowest and 3 being the highest. Col. 13, lines 1-5; discloses the interest level can be calculated in many different ways. Examples of factors that are taken into account for the calculation include frequency and recency of visits. From these two different ways to calculate the interest level of a product it is shown that the probability value of recommendations is indicated through multiple scales and ranges of possible values).

As per claim 18, the combination of Lee et al. and Frangos teaches the above-enclosed invention, but fails to fully disclose where the probability value is indicated at least in part through the relative size of a display icon.

Blades et al. teaches the probability value is indicated at least in part through the relative size of a display icon (Col. 7, lines 28-36; discloses that those persons skilled in the art will appreciate that there are many methods and graphical user interface items which may be utilized to communicate such available choices and their respective probabilities, such as for example, push buttons, radio buttons, check boxes, pop-up and pull-down menus, cascaded menus, icons, or other dialog boxes or menus, from this it is shown that icons can be used to display the probability of a recommendation, it is inherent that the bigger something is the greater it is and the inverse if it is smaller. From that it can be shown that if an icon is of greater size then a second it has a higher probability).

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From this teaching of Blades, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of acquiring information from users and displaying it in a list ordered by the rating and displaying an associated probability for the recommendations provided by that system shown by the combination of Lee et al. and Frangos with the displaying of that probability in the form of an icon as shown in Blades et al. for the purpose of giving the user a more easily understood form of the probability information that would aid them in the purchase decision.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul R. Fisher whose telephone number is (571) 270-5097. The examiner can normally be reached on Mon/Fri [7:30am/5pm] with first Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynda Jasmin can be reached on (571) 270-3033. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

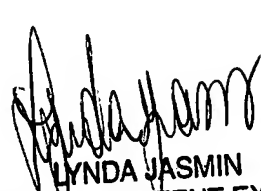
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USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PRF

 10/24/07
LYNDA JASMIN
SUPERVISORY PATENT EXAMINER